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Honorable Don Burgess  
Honorable Gary Sanderson  
Rodney G. Ellis

June 13, 2022

National FOIA Office  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW (2310A)  
Washington, DC 20460

**Via Website:** [www.foiaonline.gov](http://www.foiaonline.gov)

United States Environmental Protection Agency - Region 6  
ATTN: Margaret E. Osbourne  
1201 Elm Street, Suite 500  
Dallas, Texas 75270

**Via Email:** [Osbourne.margaret@epa.gov](mailto:Osbourne.margaret@epa.gov)

**RE: FOIA Request Regarding H-E-B Grocery and BioErase**

Dear Sir or Madam:

Please accept this letter as a request for documents and information under the Freedom of Information Act and/or the Texas Open Records Act, as appropriate.

We wish to be provided with all disclosable information pertaining to the advisory letter attached hereto as Exhibit "A" wherein, on March 31, 2021, the EPA wrote to H-E-B Grocery about its website marketing for BioErase.

We also wish to be provided with any information request letter, or Consent Agreement and Final Order, and all correspondence pertaining thereto.

We will of course pay the reasonable costs incurred in responding to this request. In that regard, please send us if necessary an invoice or estimate of the proposed charges in advance.

Thank you for your attention to this matter.

Sincerely,

REAUD, MORGAN & QUINN, LLP

/s/John Werner

John Werner

JW/ab

# EXHIBIT “A”



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270

March 31, 2021

**Via Electronic Mail:**

*Schiffmacher.karen@heb.com*

*Heath.jennifer@heb.com*

Karen Schiffmacher  
HEB  
646 S Flores  
San Antonio, TX. 78204

Re: Advisory Letter – HEB

Dear Ms. Schiffmacher:

The United States Environmental Protection Agency is issuing this advisory letter to HEB concerning the advertising and marketing information located on the website, <https://www.heb.com/product-detail/bioerase-antimicrobial-surface-wipes/4235007>. This advisory addresses claims made relating to pests, including bacteria and viruses, for the pesticidal product BioErase Antimicrobial Surface Wipes (Unregistered Product – No EPA Registration Number), and the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

On March 19, 2021, the EPA spoke with representatives of HEB regarding claims made on the website for BioErase Antimicrobial Surface Wipes. At the time of EPA's communication with HEB, claims were made on the website that the product, "BioErase Antimicrobial Surface Wipes is a broad-spectrum antimicrobial cleaner to kill bacteria and viruses." At the time of the EPA's communication with HEB, the product BioErase Antimicrobial Surface Wipes was not registered pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.

As the EPA discussed with Company representatives, the distribution or sale of an unregistered pesticide may constitute a violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

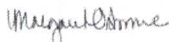
Thank you for HEB's immediate attention to remove any potentially violative claims from the website, and any advertisement until such time the product can be registered with the EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a. Should you need any additional information, please reference the EPA Coronavirus Disease (COVID-19) webpage at <https://www.epa.gov/coronavirus>.

Please note that this Advisory Letter does not limit or preclude the EPA's ability to take additional enforcement action authorized pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), including penalties of up to \$20,228 per violation.

HEB-MAV 000368

If you have any questions concerning this Advisory Letter, please contact Lawrence Pittman with the Office of Regional Counsel, at (214) 665-8381, or [Pittman.Lawrence@epa.gov](mailto:Pittman.Lawrence@epa.gov), or Lee McMillan at (214) 665-6404, or [mcmillan.lee@epa.gov](mailto:mcmillan.lee@epa.gov). Thank you for your cooperation in this matter.

Sincerely,



Digitally signed by  
MARGARET  
OSBOURNE  
Date: 2021.03.31  
17:11:06 -05'00'

Margaret E. Osbourne, Chief  
Waste Enforcement Branch